

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY)	
OF ILLINOIS)	
)	
Petition for a Certificate of Public)	
Convenience and Necessity, pursuant to)	Docket No. 14-0514
Section 8-406 of the Illinois Public Utilities)	
Act, and an Order pursuant to Section 8-)	
503 of the Public Utilities Act, to Construct,)	
Operate and Maintain a New High Voltage)	
Electric Service Line in the Counties of)	
Peoria and Knox, Illinois)	

**REPLY BRIEF ON EXCEPTIONS
OF THE SP PARTIES**

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The SP Parties provide the Illinois Commerce Commission with this Reply Brief on Exceptions pursuant to §200.830 of the Commission's Rules of Practice. The Reply Brief addresses ATXI's and CARB's briefs on exceptions.

I. The exceptions raised by ATXI have no basis in the record and should be rejected

ATXI advocates flipping the ALJPO's conclusions on several factors and argues that cost of construction is a factor of greater importance. The ALJPO reached correct conclusions on each factor. Moreover, ATXI's argument that cost of construction is outcome determinative is contrary to Commission precedent and its own routing study. Accordingly, ATXI's exceptions should be rejected.

A. Commission precedent and ATXI's routing study undercut its attempt to render cost of construction a dispositive factor

ATXI argues for the elevation of the cost of construction factor, making it dispositive. It provides no authority to support its position. It cannot; Commission decisions suggest that cost is actually less important than other factors.

For example, agreements are more important than cost. Order, p. 24, *In re Commonwealth Edison Co.*, Docket 13-0567 (Oct. 22, 2014) (approving a more costly to construct route modification due to agreement). Impacts to residences are also more important than cost. Order, p. 16, *In re Illinois Power Company d/b/a Ameren IP & Ameren Illinois Transmission Co.*, Docket 06-0179, p. 16 (May 16, 2007). If anything, Commission precedent undercuts ATXI's position.

Moreover, ATXI's argument flies in the face of its own routing study.

Q. Were the routing criteria weighed?

A. No. The routing team considered all routing criteria holistically when evaluating a potential route or comparing several potential routes. . . . Generally, each route evaluation or comparison considered all of the routing criteria equally.

Koch, Dir., ATXI Ex. 8.0, ll. 141-146. Given, the routing study did not strictly apply the Commission's twelve factors. However, its criteria parallel the factors. For example, residences were considered sensitivities, use of field and property lines were considered a plus, minimizing route length was a goal, and avoiding environmentally and historically sensitive areas was attempted. ATXI Ex. 8.2 (Rev.), Pt. 1 of 2, p. 8.

ATXI provides a sole justification for its elevation of the cost factor. It claims a "close balancing of the other routing factors." ATXI Brief on Exceptions, p. 3. It should be expected that Routes A and B are somewhat close; they were supposedly the two best routes that ATXI could put forth. If accepted, ATXI's argument would render every routing dispute a single, not twelve, factor test. However, the ALJPO recognized that many factors weighed in Route B's favor. The "balance" was not as close as ATXI argues.

The Commission should not elevate cost of construction to the sole or primary factor for consideration. Doing so would fly in the face of Commission precedent, ATXI's routing study, and would render the Commission's twelve-factor analysis null.

B. Even if an initial opportunity, evidence shows that Interstate 74's drastic increase in impacts to landowners makes it inferior to other opportunities

ATXI's reliance on the Interstate 74 corridor as an opportunity is misplaced. The ALJPO correctly determined that use of the Interstate 74 corridor had severe impacts to landowners. pp. 27, 38 (discussing pole placement in tilled areas). Mr. Ramp's direct testimony explains the substantial and damaging impacts that pole placement in tilled areas would have on farming operations. Unlike Route A, Route B has more extensive opportunities for pole placement along, or adjacent to, property lines. This allows for placement in non-tilled areas, lessening disruptions to farming practices. Ramp, Tr. 291:6-9.

ATXI's routing study claimed that pipelines were an opportunity. ALJPO, p. 36. The ALJPO downplays the intensity of ATXI's opposition to characterization of pipelines as an opportunity. It acknowledged, "ATXI point[ed] out that [pipeline opportunities] may require additional engineering and construction costs." *Id.* Thus, ATXI has argued that not all opportunities are created equal. Some suffer significant defects. Its own logic applies here. Interstate 74's visual impact and impact to farmers make it an inferior opportunity.

In arguing that a roadway's access renders it a better opportunity, ATXI cites to a few Commission Orders. ATXI Brief on Exceptions, p. 4. Yet, it ignores that U.S. Highway 150 and the Rock Island State Trail and Greenway can provide access for

Route B's maintenance. In fact, they would do so in less travelled, and presumably less dangerous, areas.

Further, reliance on Staff's advocacy for Route A is misplaced. Mr. Rockrohr admitted to being unfamiliar with pole placement's impacts on farming operations. Rockrohr, Tr. 127:9-17. Thus, his failure to recognize that Interstate 74 was an inferior opportunity is unsurprising. Moreover, Staff did not take exception to the ALJPO's adoption of Route B.

Finally, ATXI's comparison of U.S. Highway 150 and Interstate 74 misses the mark. Unlike ATXI's admission that Interstate 74's use will result in pole placement in tilled areas, there is no evidence in the record that use of the Highway 150 opportunity would result in pole placement in tilled areas. This Commission cannot assume or speculate that this will occur. Even if the Commission were to speculate and assume the worst about Route B, Highway 150 is paralleled for less distance than Interstate 74. Thus, there would be less impact.

The fact of the matter is that the evidence shows that Interstate 74 is not the opportunity it initially appeared to be. Its impacts to farming and drastic visual impact render its advantages null. Route B utilizes nearly as much existing corridor as Route A. ALJPO, p. 38. But Route B's corridors are superior. If anything, the ALJPO errs by declaring a draw on the presence of existing corridors factor, Route B is actually superior. *Id.*

C. Having to apply for a permit does not mean that Route B has greater environmental impact

ATXI's attempt to flip the environmental factor in its favor is facially unreasonable. Its primary argument is that forested wetlands are more important than forests. ATXI Brief on Exceptions, p. 5. The record does not support this assertion.

Why are forested wetlands more important than forests? ATXI argues that it has to obtain a permit. Nothing in the record suggests that more animals perish, more vegetation dies, or any greater environmental impact occurs because an ATXI employee has to apply for a permit. Secondly, the references ATXI cites do not support its argument. The first simply lists having to apply for permits as a sensitivity. It does not equate it with actual increased environmental damage. The latter suggests that permits may not even be needed. Truly, ATXI's efforts to apply for a permit are reflected in the difficulty and cost of construction factor, not in impacts to the environment factor.

Finally, ATXI argued that the Illinois Historical Preservation Agency prefers Route B. As before, ATXI is "double dipping." ATXI does not explain how the IHPA has anything to do with the environment. The ALJPO correctly considered impacts on historical resources under the impacts to historical resources factor. ALJPO, p. 22-23.

D. An increase in traffic noise, if Route A were utilized, has adequate support in the evidentiary record

It is unreasonable to argue that noise impacts do not appear in the record. Several landowners, more familiar with the land than any ATXI witness, sufficiently explained that increased noise would occur. They also explained it was not a single landowner issue.

To begin, ATXI considered the issue: “increased road noise due to vegetation removal is a possibility, which was considered when studying the routes, but was not quantified. Even with any increased road noise, Route A remains the best route for the Project.” Koch, Surr., ATXI Ex. 22.0, ll. 272-275. Mr. Koch’s consideration of increased noise, and his suggestion it would occur, undercut ATXI’s argument that the record is lacking.

Secondly, Ms. Tomlinson and Mr. Palmer both point out that there will be an increase in noise due to removal of the trees. SP Parties, Initial Brief, p. 23. In fact, the record shows that the simple shedding of leaves leads to increased road noise. Palmer, Reb., ll. 14-16. Further, witnesses pointed out that increased noise would affect whole subdivisions. *Id.*, Tomlinson, Reb., ll. 11-12, 77-79.

Boiled down, ATXI’s argument is that its failure to undertake a noise study renders the record incomplete. Even if the record did not address this point (it does), the argument only exists because of ATXI’s failure to fully study its routes.

E. The complete removal of vegetation along Interstate 74 will have a substantial visual impact

The ALJPO correctly recognized that construction of a high voltage transmission line along heavily travelled Interstate 74 would constitute a greater visual impact than construction along other opportunities. ALJPO, p. 36. It is correct. Yet, ATXI continues to claim that Routes A and B are equivalent on this factor. The basis for its argument is that Route A only removes four more acres of trees. ATXI Brief on Exceptions, p. 6.

To begin, the removal of four more acres of trees suggests a greater visual impact. More importantly, ATXI fails refute that there will be a complete removal of vegetation for a majority of the Interstate 74 corridor between Galesburg and Brimfield,

exposing thousands of drivers to denuded landscapes rather than the current scenic view.

- F. Contrary to ATXI's assertion, the KCI still believe that Ramp's Alt 2 modification is superior to an unmodified Route A

On page 16 of its brief, ATXI attempts to put words in the SP Parties' mouth. The KCI still believe that the Alt 2 routing alternative, with a jog to avoid residences, is superior to an unmodified Route A.

- G. Any CPCN should be conditioned on the certain construction of the MEC portion of MVP16 and Sec. 8-503 provides a reasonable method for doing so

The SP Parties understand ATXI's concern with conditioning a CPCN on the actual construction of the MEC portion of the Spoon River Project. The SP Parties suggest that the CPCN could be conditioned on language in the MEC Docket that orders construction under §8-503 of the Public Utilities Act, rather than merely authorizing it. This provides the requisite certainty without requiring actual construction.

II. CARB's exceptions are unsupported by the record

CARB's only evidentiary submission was testimony that an individual failed to recognize a document he was signing. Thus, it is no surprise that its exceptions have no support in the record. CARB submitted pseudo-testimony in its brief – making factual averments without support in the record. It should not be considered. It certainly cannot overcome the evidence of record. It bears noting that no party had the opportunity to cross-examine any CARB member on the new pseudo-testimony.

The SP Parties are entitled to due process. This includes the right to cross-examine individuals putting forth evidence. *Interstate Commerce Comm'n. v. Louisville & Nashville R.R.*, 227 U.S. 88, 93-94 (1913). CARB's brief repeatedly utilizes pseudo-

testimony. There was no opportunity to cross and show that these factual assertions contradict the record. For example, one of the most egregiously false factual assertions is that pole placement along U.S. Highway 150 will be 75 feet from the right of way.

A. CARB's assertion that use of Highway 150 will result in pole placement far into fields is without any basis in, and is contradicted by, the record

CARB speculates that poles will be placed 75 feet away from roadways. CARB, Brief on Exceptions, p. 2. Its speculation is manifestly wrong. Like Interstate 74, placement of poles will be 7-10 feet from the right of way. Molitor, Dir., ATXI Ex. 6.0 (Rev.) II. 95-101. Moreover, there is absolutely no evidence in the record that the 7-10 feet will result in pole placement in tilled areas of fields.

B. CARB's interpretation of ATXI maps is both inappropriate and fails to acknowledge spanning

Most of the remainder of CARB's argument relies upon pseudo-testimony interpretation of maps. CARB assumes that pole placement is a foregone conclusion. The record indicates that final pole placement cannot be determined until final line design. Molitor, Reb., ATXI Ex. II. 146-150. The simple fact is that Route B utilizes property and section lines. This allows poles to be placed in untilled areas.

The ALJPO correctly concludes that pole foundations can be placed on property or field lines if Route B is utilized. This is not the case if Route A is utilized. CARB fails to point to any evidence in the record indicating otherwise.

C. CARB places too much reliance on Staff's position on routing

Like ATXI, CARB relies on Staff's support for Route A. For the reasons pointed out above, CARB's reliance is unjustified.

D. CARB's membership has been adequately considered

Finally, CARB argues that its membership constitutes 80% of the intervenors in this docket. It does not argue that this amounts to any defect in the ALJPO's proposed ruling. The ALJPO correctly considered and weighed CARB's membership against the signatories to the Moon's petition and the residents of the Village of Brimfield. The ALJPO called the community acceptance factor a wash. The ALJPO was correct.

Respectfully submitted,
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